

AMENDED IN SENATE AUGUST 22, 2014  
AMENDED IN SENATE AUGUST 20, 2014  
AMENDED IN SENATE JULY 1, 2014  
AMENDED IN SENATE JUNE 11, 2014  
AMENDED IN ASSEMBLY MAY 23, 2014  
AMENDED IN ASSEMBLY MARCH 28, 2014  
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AMENDED IN ASSEMBLY MARCH 11, 2014  
CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2034**

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**Introduced by Assembly Member Gatto**

February 20, 2014

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An act to ~~amend Section 15657.03 of the Welfare and Institutions Code~~ add Section 2361 to, and to add and repeal Chapter 7 (commencing with Section 3820) to Part 8 of Division 4 of the Probate Code, relating to elder and dependent adults.

LEGISLATIVE COUNSEL'S DIGEST

AB 2034, as amended, Gatto. Elder and dependent adults.

*Existing law requires the conservator of a person to be responsible for the care, custody, control, and education of the conservatee, except when the court, in its discretion, limits the powers and duties of the conservator, as specified.*

*This bill would require the conservator of an elder or dependent adult to inform the relatives of the conservatee whenever the conservatee*

*dies or is admitted to a medical facility for acute care for a period of 3 days or more and would require the conservator, in the event of the death of the conservatee, to inform the relatives of any funeral arrangements and the location of the conservatee's final resting place.*

Existing law authorizes a conservator or a trustee of an elder or dependent adult, an attorney-in-fact of an elder or dependent adult, a person appointed as a guardian ad litem for an elder or dependent adult, or another person legally authorized to seek a protective order on behalf of an elder or dependent adult who has suffered physical abuse, neglect, financial abuse, abandonment, isolation, abduction, or other treatment with resulting physical harm or pain or mental suffering, or the deprivation by a care custodian of goods or services that are necessary to avoid physical harm or mental suffering.

*This bill would allow a relative of the first degree to bring a petition for a visitation order to enjoin a respondent from keeping an elder or dependent adult in isolation from contact with the petitioner.*

~~This bill would, for purposes of a petition alleging abuse in the form of isolation, as defined, allow the petition to be brought on behalf of an abused elder or dependent adult by a relative of the first degree of the elder or dependent adult who seeks visitation with the isolated elder or dependent adult.~~

~~The bill would require the court to determine whether the elder or dependent adult on whose behalf the petition was filed has retained or intends to retain an attorney, and if the elder or dependent adult has not retained an attorney and does not plan to retain one, allow the court to appoint an attorney. The bill would allow the court to appoint counsel to represent the proposed visitee if the proposed visitee has not retained an attorney or is unable to retain an attorney and requests the appointment of counsel. If an attorney is appointed, the bill would require the court to fix a reasonable sum for the reasonable costs and fees compensation and expenses of the elder or dependent adult's attorney proposed visitee's counsel. The bill would allow the court to order the respondent, if the petition is granted, or the relative of the first degree, if the petition is denied, to pay the reasonable fees and costs of the elder or dependent adult's attorney. The bill would require the court to determine the ability of the person to pay these fees and costs nonprevailing party to pay the fees and costs of the proposed visitee's counsel and would require the county to pay to the extent the person is unable to pay. By requiring the county to pay these costs, this bill would impose a state-mandated local program.~~

*The bill would make these provisions operative on January 1, 2016, and would repeal these provisions on January 1, 2019.*

Because a violation of a court order issued pursuant to the above provisions would be punishable as contempt, a misdemeanor, this bill would create a new crime and would thereby impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1     *SECTION 1. Section 2361 is added to the Probate Code,*  
2     *immediately following Section 2360, to read:*

3     *2361. A conservator of an elder or dependent adult shall inform*  
4     *the relatives of the conservatee, as listed in subdivision (b) of*  
5     *Section 1821, whenever the conservatee dies or is admitted to a*  
6     *medical facility for acute care for a period of three days or more.*  
7     *In the case of death, the conservator shall inform the relatives of*  
8     *any funeral arrangements and the location of the conservatee's*  
9     *final resting place.*

10    *SEC. 2. Chapter 7 (commencing with Section 3820) is added*  
11    *to Part 8 of Division 4 of the Probate Code, to read:*

12  
13         *CHAPTER 7. VISITATION OF ELDER OR DEPENDENT ADULT*  
14         *WITHOUT CONSERVATOR*

15  
16     *3820. (a) A petition may be brought for a visitation order*  
17     *seeking to enjoin a respondent from keeping a proposed visitee in*  
18     *isolation from contact with the petitioner.*

19     *(b) For the purposes of this section:*

1 (1) “Elder” has the same meaning as defined in Section  
2 15610.27 of the Welfare and Institutions Code.

3 (2) “Dependent adult” has the same meaning as defined in  
4 Section 15610.23 of the Welfare and Institutions Code.

5 (3) “Isolation” has the same meaning as defined in Section  
6 15610.43 of the Welfare and Institutions Code.

7 (4) “Petitioner” means a person who is an adult relative in the  
8 first degree of the proposed visitee.

9 (5) “Proposed visitee” means the elder or dependent adult who  
10 is under the care or control of the respondent.

11 (6) “Respondent” means the person who is alleged to be  
12 isolating the proposed visitee and, if the petition is granted, the  
13 restrained person.

14 (7) “Visitation” means any in-person meeting between a  
15 proposed visitee and the petitioner.

16 (8) “Visitation order” means an order enjoining a party from  
17 keeping the proposed visitee in isolation from contact with the  
18 petitioner that is issued by a court after notice and hearing.

19 (c) (1) If the proposed visitee resides in a long-term care  
20 facility, as defined in Section 9701 of the Welfare and Institutions  
21 Code, or a residential facility, as defined in Section 1502 of the  
22 Health and Safety Code, then an order shall not be issued under  
23 this section, and Section 483.10 of Title 42 of the Code of Federal  
24 Regulations shall apply.

25 (2) If the elder or dependent adult is a patient of a health facility  
26 as defined in subdivision (a), (b), or (f) of Section 1250 of the  
27 Health and Safety Code, then an order shall not be issued under  
28 this section, and Sections 482.13 and 485.635 of Title 42 of the  
29 Code of Federal Regulations, Section 1261 of the Health and Safety  
30 Code, and subdivision (b) of Section 70707 of Title 22 of the  
31 California Code of Regulations shall apply.

32 (d) A petition may not be filed pursuant to subdivision (a) if the  
33 proposed visitee is a conservatee or subject to a conservatorship.

34 (e) The petition may be filed in the superior court of either of  
35 the following counties:

36 (1) The county in which the proposed visitee resides.

37 (2) The county in which the proposed visitee is temporarily  
38 living.

39 (f) The court may require the proposed visitee to appear at the  
40 hearing.

1 (g) (1) If the proposed visitee has not retained an attorney or  
2 is unable to retain legal counsel and requests the appointment of  
3 counsel to assist in the particular matter, the court may, at or  
4 before the time of the hearing, appoint counsel to represent the  
5 proposed visitee at the hearing on the petition if the court  
6 determines that the appointment would be helpful to the resolution  
7 of the matter or is necessary to protect the interests of the proposed  
8 visitee.

9 (2) If the proposed visitee is provided legal counsel pursuant  
10 to subparagraph (1), all of the following shall apply:

11 (A) The nonprevailing party may be required to pay the fees  
12 and costs of the proposed visitee's legal counsel.

13 (B) The court shall, upon conclusion of the matter, fix a  
14 reasonable sum for compensation and expenses of counsel and  
15 shall make a determination of the nonprevailing party's ability to  
16 pay all or a portion of that sum. The sum may, in the discretion of  
17 the court, include compensation for services rendered, and  
18 expenses incurred, before the date of the order appointing counsel.

19 (C) If the court determines that the nonprevailing party has the  
20 ability to pay all or a portion of the sum, the court shall order the  
21 nonprevailing party to pay in any installments and in any manner  
22 the court determines to be reasonable and compatible with the  
23 nonprevailing party's financial ability.

24 (D) If the court determines that the nonprevailing party lacks  
25 the ability to pay all or a portion of the sum determined under  
26 subparagraph (B), the county shall pay the sum to the private  
27 counsel to the extent the court determines the person is unable to  
28 pay.

29 (h) The court shall schedule an evidentiary hearing within 60  
30 days from the date that the petition is filed. The court may grant  
31 a continuance of the hearing for good cause.

32 (i) The respondent and the proposed visitee shall each be  
33 personally served with a copy of the petition for visitation order  
34 and notice of the hearing at least 21 days before the hearing date.

35 (j) The notice of the hearing shall notify the proposed visitee  
36 and the respondent that following the hearing the court may make  
37 orders not to exceed five years from the hearing date. The notice  
38 of the hearing shall also notify the proposed visitee whether the  
39 court requires that the proposed visitee appear at the hearing, and

1 *how to request that counsel be appointed if the proposed visitee*  
2 *is unable to retain counsel.*

3 *(k) Respondent may file and serve a response that explains or*  
4 *denies the alleged isolation at least 10 days before the hearing*  
5 *date.*

6 *(l) The court shall issue an order only after notice and a hearing*  
7 *under this section, and the court shall not issue an ex parte order*  
8 *under this section.*

9 *(m) An order may be issued under this section to restrain the*  
10 *respondent for the purpose of preventing a recurrence of isolation*  
11 *if the petitioner has shown by a preponderance of the evidence, to*  
12 *the satisfaction of the court, the following: (1) the respondent's*  
13 *past act or acts of isolation of the proposed visitee prevented*  
14 *contact with the petitioner, and (2) that the proposed visitee desires*  
15 *contact with the petitioner. The order may specify the frequency,*  
16 *time, place, location, and any other terms or conditions of*  
17 *visitation.*

18 *(n) In deciding whether to issue or modify a visitation order*  
19 *under this section, the court shall consider any prior protective*  
20 *orders issued against the petitioner to protect the proposed visitee.*

21 *(o) In deciding whether to issue or modify a visitation order*  
22 *under this section, the court may consider whether visitation by*  
23 *the petitioner should be limited to situations in which a third*  
24 *person, specified by the court, is present, or whether visitation*  
25 *shall be suspended or denied. The petitioner, proposed visitee, or*  
26 *respondent may submit to the court the name of a person who may*  
27 *be suitable to be present during visitation.*

28 *(p) In the discretion of the court, an order issued after notice*  
29 *and a hearing under this section may have a duration of not more*  
30 *than five years, subject to termination or modification by further*  
31 *order of the court either on written stipulation filed with the court*  
32 *or on the motion of a party. These orders may be renewed, upon*  
33 *the request of a party, either for five years or permanently, without*  
34 *a showing of any further isolation since the issuance of the original*  
35 *order, subject to termination or modification by further order of*  
36 *the court either on written stipulation filed with the court or on*  
37 *the motion of a party. The request for renewal may be brought at*  
38 *any time within the three months before the expiration of the*  
39 *orders. The failure to state the expiration date on the face of the*

1 form creates an order with a duration of three years from the date  
2 of issuance.

3 (q) Nothing in this section shall preclude any party, including  
4 the proposed visitee, from representation by private counsel or  
5 from appearing on the party's own behalf.

6 (r) The court may, in its discretion, award the prevailing party  
7 in any action brought under this section court costs and attorney's  
8 fees, if any. In no event shall the proposed visitee be required to  
9 pay the court costs or attorney's fees of either the prevailing or  
10 nonprevailing party.

11 (s) The court shall not issue an order unless the proposed visitee  
12 has expressed a desire for visitation. The court may appoint a  
13 court investigator to determine whether the proposed visitee has  
14 expressed a desire for visitation.

15 (t) A proposed visitee who appears in an action on a petition  
16 for visitation order shall not be subject to any fees listed in Title  
17 8 (commencing with Section 68070) of the Government Code.

18 (u) The Judicial Council shall, on or before January 1, 2016,  
19 adopt implementing rules and forms, as necessary.

20 (v) This section shall become operative on January 1, 2016.

21 (w) This section shall remain in effect only until January 1,  
22 2019, and as of that date is repealed, unless a later enacted statute,  
23 that is enacted before January 1, 2019, deletes or extends that  
24 date.

25 ~~SECTION 1. Section 15657.03 of the Welfare and Institutions~~  
26 ~~Code is amended to read:~~

27 ~~15657.03. (a) (1) An elder or dependent adult who has suffered~~  
28 ~~abuse as defined in Section 15610.07 may seek protective orders~~  
29 ~~as provided in this section.~~

30 ~~(2) (A) A petition may be brought on behalf of an abused elder~~  
31 ~~or dependent adult by a conservator or a trustee of the elder or~~  
32 ~~dependent adult, an attorney-in-fact of an elder or dependent adult~~  
33 ~~who acts within the authority of the power of attorney, a person~~  
34 ~~appointed as a guardian ad litem for the elder or dependent adult,~~  
35 ~~or other person legally authorized to seek such relief.~~

36 ~~(B) If the petition alleges abuse of an elder or dependent adult~~  
37 ~~in the form of isolation, as defined in Section 15610.43, the term~~  
38 ~~"other person legally authorized to seek such relief" as used in~~  
39 ~~paragraph (2) includes a relative within the first degree of the~~

~~1 abused elder or dependent adult who seeks visitation with the  
2 isolated elder or dependent adult.~~

~~3 (b) For the purposes of this section:~~

~~4 (1) "Conservator" means the legally appointed conservator of  
5 the person or estate of the petitioner, or both.~~

~~6 (2) "Petitioner" means the elder or dependent adult to be  
7 protected by the protective orders and, if the court grants the  
8 petition, the protected person.~~

~~9 (3) "Protective order" means an order that includes any of the  
10 following restraining orders, whether issued ex parte, after notice  
11 and hearing, or in a judgment:~~

~~12 (A) An order enjoining a party from abusing, intimidating,  
13 molesting, attacking, striking, stalking, threatening, sexually  
14 assaulting, battering, harassing, telephoning, including, but not  
15 limited to, making annoying telephone calls as described in Section  
16 653m of the Penal Code, destroying personal property, contacting,  
17 either directly or indirectly, by mail or otherwise, or coming within  
18 a specified distance of, or disturbing the peace of, the petitioner,  
19 and, in the discretion of the court, on a showing of good cause, of  
20 other named family or household members or a conservator, if  
21 any, of the petitioner.~~

~~22 (B) An order excluding a party from the petitioner's residence  
23 or dwelling, except that this order shall not be issued if legal or  
24 equitable title to, or lease of, the residence or dwelling is in the  
25 sole name of the party to be excluded, or is in the name of the party  
26 to be excluded and any other party besides the petitioner.~~

~~27 (C) An order enjoining a party from specified behavior that the  
28 court determines is necessary to effectuate orders described in  
29 subparagraph (A) or (B):~~

~~30 (4) "Respondent" means the person against whom the protective  
31 orders are sought and, if the petition is granted, the restrained  
32 person.~~

~~33 (e) An order may be issued under this section, with or without  
34 notice, to restrain any person for the purpose of preventing a  
35 recurrence of abuse, if a declaration shows, to the satisfaction of  
36 the court, reasonable proof of a past act or acts of abuse of the  
37 petitioning elder or dependent adult.~~

~~38 (d) Upon filing a petition for protective orders under this section,  
39 the petitioner may obtain a temporary restraining order in  
40 accordance with Section 527 of the Code of Civil Procedure, except~~



1 to the extent this section provides a rule that is inconsistent. The  
2 temporary restraining order may include any of the protective  
3 orders described in paragraph (3) of subdivision (b). However, the  
4 court may issue an ex parte order excluding a party from the  
5 petitioner's residence or dwelling only on a showing of all of the  
6 following:

7 (1) Facts sufficient for the court to ascertain that the party who  
8 will stay in the dwelling has a right under color of law to possession  
9 of the premises.

10 (2) That the party to be excluded has assaulted or threatens to  
11 assault the petitioner, other named family or household member  
12 of the petitioner, or a conservator of the petitioner.

13 (3) That physical or emotional harm would otherwise result to  
14 the petitioner, other named family or household member of the  
15 petitioner, or a conservator of the petitioner.

16 (e) A request for the issuance of a temporary restraining order  
17 without notice under this section shall be granted or denied on the  
18 same day that the petition is submitted to the court, unless the  
19 petition is filed too late in the day to permit effective review, in  
20 which case the order shall be granted or denied on the next day of  
21 judicial business in sufficient time for the order to be filed that day  
22 with the clerk of the court.

23 (f) Within 21 days, or, if good cause appears to the court, 25  
24 days, from the date that a request for a temporary restraining order  
25 is granted or denied, a hearing shall be held on the petition. If no  
26 request for temporary orders is made, the hearing shall be held  
27 within 21 days, or, if good cause appears to the court, 25 days,  
28 from the date that the petition is filed.

29 (g) The respondent may file a response that explains or denies  
30 the alleged abuse.

31 (h) (1) Upon the filing of a petition by a relative of the first  
32 degree pursuant to paragraph (2) of subdivision (a), the court shall  
33 determine whether the elder or dependent adult on whose behalf  
34 the petition was filed has retained or intends to retain an attorney.  
35 If the elder or dependent adult has not retained an attorney and  
36 does not plan to retain one, the court may appoint an attorney to  
37 represent the elder or dependent adult.

38 (2) If the court appoints an attorney to represent the elder or  
39 dependent adult, the court may order the respondent, if the petition  
40 is granted, or the relative of the first degree, if the petition is denied,

1 to pay the reasonable fees and costs of the elder or dependent  
2 adult's attorney.

3 (3) If the court appoints an attorney to represent the elder or  
4 dependent adult, the court shall, upon conclusion of the matter,  
5 fix a reasonable sum for the reasonable costs and fees of the elder  
6 or dependent adult's attorney and shall make a determination of  
7 the paying person's ability to pay all or a portion of that sum. The  
8 sum may, in the discretion of the court, include compensation for  
9 services rendered, and expenses incurred, before the date of the  
10 order appointing counsel.

11 (4) If the court determines that the person ordered to pay the  
12 reasonable fees and costs of the elder or dependent adult's attorney  
13 has the ability to pay all or a portion of the sum, the court shall  
14 order that person to pay in any installments and in any manner the  
15 court determines to be reasonable and compatible with the person's  
16 financial ability.

17 (5) If the court determines that the person who is ordered to pay  
18 the reasonable fees and costs of the elder or dependent adult's  
19 attorney in the amount determined pursuant to paragraph (3) is  
20 unable to pay, the county shall pay the sum to the counsel to the  
21 extent the court determines the person is unable to pay.

22 (6) If the elder or dependent adult fails to participate in the  
23 proceeding in any meaningful way, the court shall appoint a  
24 guardian ad litem for the elder or dependent adult to determine the  
25 ability of the elder or dependent adult to participate.

26 (i) The court may issue, upon notice and a hearing, any of the  
27 orders set forth in paragraph (3) of subdivision (b). The court may  
28 issue, after notice and hearing, an order excluding a person from  
29 a residence or dwelling if the court finds that physical or emotional  
30 harm would otherwise result to the petitioner, other named family  
31 or household member of the petitioner, or conservator of the  
32 petitioner.

33 (j) (1) In the discretion of the court, an order issued after notice  
34 and a hearing under this section may have a duration of not more  
35 than five years, subject to termination or modification by further  
36 order of the court either on written stipulation filed with the court  
37 or on the motion of a party. These orders may be renewed upon  
38 the request of a party, either for five years or permanently, without  
39 a showing of any further abuse since the issuance of the original  
40 order, subject to termination or modification by further order of

1 the court either on written stipulation filed with the court or on the  
2 motion of a party. The request for renewal may be brought at any  
3 time within the three months before the expiration of the order.

4 (2) The failure to state the expiration date on the face of the  
5 form creates an order with a duration of three years from the date  
6 of issuance.

7 (3) If an action is filed for the purpose of terminating or  
8 modifying a protective order prior to the expiration date specified  
9 in the order by a party other than the protected party, the party  
10 who is protected by the order shall be given notice, pursuant to  
11 subdivision (b) of Section 1005 of the Code of Civil Procedure,  
12 of the proceeding by personal service or, if the protected party has  
13 satisfied the requirements of Chapter 3.1 (commencing with  
14 Section 6205) of Division 7 of Title 1 of the Government Code,  
15 by service on the Secretary of State. If the party who is protected  
16 by the order cannot be notified prior to the hearing for modification  
17 or termination of the protective order, the court shall deny the  
18 motion to modify or terminate the order without prejudice or  
19 continue the hearing until the party who is protected can be  
20 properly noticed and may, upon a showing of good cause, specify  
21 another method for service of process that is reasonably designed  
22 to afford actual notice to the protected party. The protected party  
23 may waive his or her right to notice if he or she is physically  
24 present in court and does not challenge the sufficiency of the notice.

25 (k) In a proceeding under this section, a support person may  
26 accompany a party in court and, if the party is not represented by  
27 an attorney, may sit with the party at the table that is generally  
28 reserved for the party and the party's attorney. The support person  
29 is present to provide moral and emotional support for a person  
30 who alleges he or she is a victim of abuse. The support person is  
31 not present as a legal adviser and may not provide legal advice.  
32 The support person may assist the person who alleges he or she is  
33 a victim of abuse in feeling more confident that he or she will not  
34 be injured or threatened by the other party during the proceedings  
35 if the person who alleges he or she is a victim of abuse and the  
36 other party are required to be present in close proximity. This  
37 subdivision does not preclude the court from exercising its  
38 discretion to remove the support person from the courtroom if the  
39 court believes the support person is prompting, swaying, or  
40 influencing the party assisted by the support person.

~~(l) Upon the filing of a petition for protective orders under this section, the respondent shall be personally served with a copy of the petition, notice of the hearing or order to show cause, temporary restraining order, if any, and any declarations in support of the petition. Service shall be made at least five days before the hearing. The court may, on motion of the petitioner or on its own motion, shorten the time for service on the respondent. If a petition is filed by a relative of the first degree, the isolated elder or dependent adult shall be notified of the hearing and any declarations in support of the petition.~~

~~(m) A notice of hearing under this section shall notify the respondent that if he or she does not attend the hearing, the court may make orders against him or her that could last up to five years. If a petition is filed by a relative of the first degree, the isolated elder or dependent adult shall be notified that if he or she does not attend the hearing, the court may issue a protective order that facilitates visitation with him or her that could last up to five years.~~

~~(n) (1) The court may, upon the filing of a declaration by the petitioner that the respondent could not be served within the time required by statute, reissue an order previously issued and dissolved by the court for failure to serve the respondent. The reissued order shall remain in effect until the date set for the hearing.~~

~~(2) The reissued order shall state on its face the date of expiration of the order.~~

~~(o) (1) If a respondent, named in an order issued under this section after a hearing, has not been served personally with the order but has received actual notice of the existence and substance of the order through personal appearance in court to hear the terms of the order from the court, no additional proof of service is required for enforcement of the order.~~

~~(2) If the respondent named in a temporary restraining order is personally served with the order and notice of hearing with respect to a restraining order or protective order based on the temporary restraining order, but the respondent does not appear at the hearing, either personally or by an attorney, and the terms and conditions of the restraining order or protective order issued at the hearing are identical to the temporary restraining order, except for the duration of the order, then the restraining order or protective order issued at the hearing may be served on the respondent by first-class~~

1 mail sent to the respondent at the most current address for the  
2 respondent that is available to the court.

3 ~~(3) The Judicial Council form for temporary orders issued~~  
4 ~~pursuant to this subdivision shall contain a statement in~~  
5 ~~substantially the following form:~~

6  
7 “If you have been personally served with a temporary restraining  
8 order and notice of hearing, but you do not appear at the hearing  
9 either in person or by a lawyer, and a restraining order that is the  
10 same as this temporary restraining order except for the expiration  
11 date is issued at the hearing, a copy of the order will be served on  
12 you by mail at the following address: \_\_\_\_\_.

13 If that address is not correct or you wish to verify that the  
14 temporary restraining order was converted to a restraining order  
15 at the hearing without substantive change and to find out the  
16 duration of that order, contact the clerk of the court.”

17  
18 ~~(p) (1) Information on any protective order relating to elder or~~  
19 ~~dependent adult abuse issued by a court pursuant to this section~~  
20 ~~shall be transmitted to the Department of Justice in accordance~~  
21 ~~with either paragraph (2) or (3):~~

22 ~~(2) The court shall order the petitioner or the attorney for the~~  
23 ~~petitioner to deliver a copy of an order issued under this section,~~  
24 ~~or a reissuance, extension, modification, or termination of the~~  
25 ~~order, and any subsequent proof of service, by the close of the~~  
26 ~~business day on which the order, reissuance, extension,~~  
27 ~~modification, or termination was made, to each law enforcement~~  
28 ~~agency having jurisdiction over the residence of the petitioner, and~~  
29 ~~to any additional law enforcement agencies within the court’s~~  
30 ~~discretion as are requested by the petitioner.~~

31 ~~(3) Alternatively, the court or its designee shall transmit, within~~  
32 ~~one business day, to law enforcement personnel all information~~  
33 ~~required under subdivision (b) of Section 6380 of the Family Code~~  
34 ~~regarding any order issued under this section, or a reissuance,~~  
35 ~~extension, modification, or termination of the order, and any~~  
36 ~~subsequent proof of service, by either one of the following~~  
37 ~~methods:~~

38 ~~(A) Transmitting a physical copy of the order or proof of service~~  
39 ~~to a local law enforcement agency authorized by the Department~~

1 of Justice to enter orders into the California Law Enforcement  
2 Telecommunications System (CLETS):

3 (B) With the approval of the Department of Justice, entering  
4 the order or proof of service into CLETS directly.

5 (4) Each appropriate law enforcement agency shall make  
6 available information as to the existence and current status of these  
7 orders to law enforcement officers responding to the scene of  
8 reported abuse.

9 (5) An order issued under this section shall, on request of the  
10 petitioner, be served on the respondent, whether or not the  
11 respondent has been taken into custody, by any law enforcement  
12 officer who is present at the scene of reported abuse involving the  
13 parties to the proceeding. The petitioner shall provide the officer  
14 with an endorsed copy of the order and a proof of service, which  
15 the officer shall complete and send to the issuing court.

16 (6) Upon receiving information at the scene of an incident of  
17 abuse that a protective order has been issued under this section,  
18 or that a person who has been taken into custody is the respondent  
19 to that order, if the protected person cannot produce an endorsed  
20 copy of the order, a law enforcement officer shall immediately  
21 attempt to verify the existence of the order.

22 (7) If the law enforcement officer determines that a protective  
23 order has been issued, but not served, the officer shall immediately  
24 notify the respondent of the terms of the order and where a written  
25 copy of the order can be obtained, and the officer shall at that time  
26 also enforce the order. The law enforcement officer's verbal notice  
27 of the terms of the order shall constitute service of the order and  
28 is sufficient notice for the purposes of this section and for the  
29 purposes of Section 273.6 of the Penal Code.

30 (q) Nothing in this section shall preclude either party from  
31 representation by private counsel or from appearing on the party's  
32 own behalf.

33 (r) There is no filing fee for a petition, response, or paper seeking  
34 the reissuance, modification, or enforcement of a protective order  
35 filed in a proceeding brought pursuant to this section.

36 (s) Pursuant to paragraph (4) of subdivision (b) of Section  
37 6103.2 of the Government Code, a petitioner shall not be required  
38 to pay a fee for law enforcement to serve an order issued under  
39 this section.

1     ~~(t) Except as provided in subdivision (h), the prevailing party~~  
2     ~~in any action brought under this section may be awarded court~~  
3     ~~costs and attorney's fees, if any.~~

4     ~~(u) (1) A person subject to a protective order under this section~~  
5     ~~shall not own, possess, purchase, receive, or attempt to receive a~~  
6     ~~firearm or ammunition while the protective order is in effect.~~

7     ~~(2) The court shall order a person subject to a protective order~~  
8     ~~issued under this section to relinquish any firearms he or she owns~~  
9     ~~or possesses pursuant to Section 527.9 of the Code of Civil~~  
10    ~~Procedure.~~

11    ~~(3) Every person who owns, possesses, purchases, or receives,~~  
12    ~~or attempts to purchase or receive a firearm or ammunition while~~  
13    ~~subject to a protective order issued under this section is punishable~~  
14    ~~pursuant to Section 29825 of the Penal Code.~~

15    ~~(4) This subdivision shall not apply in a case in which the~~  
16    ~~protective order issued under this section was made solely on the~~  
17    ~~basis of financial abuse unaccompanied by force, threat,~~  
18    ~~harassment, intimidation, or any other form of abuse.~~

19    ~~(v) Any willful disobedience of any temporary restraining order~~  
20    ~~or restraining order after hearing granted under this section is~~  
21    ~~punishable pursuant to Section 273.6 of the Penal Code.~~

22    ~~(w) This section does not apply to any action or proceeding~~  
23    ~~governed by Title 1.6C (commencing with Section 1788) of Part~~  
24    ~~4 of Division 3 of the Civil Code, by Chapter 3 (commencing with~~  
25    ~~Section 525) of Title 7 of Part 2 of the Code of Civil Procedure,~~  
26    ~~or by Division 10 (commencing with Section 6200) of the Family~~  
27    ~~Code. Nothing in this section shall preclude a petitioner's right to~~  
28    ~~use other existing civil remedies.~~

29    ~~(x) When a petition is filed by a relative of the first degree~~  
30    ~~pursuant to paragraph (2) of subdivision (a), both of the following~~  
31    ~~shall apply:~~

32    ~~(1) The court shall not issue a protective order without the~~  
33    ~~knowledge and agreement of the elder or dependent person on~~  
34    ~~whose behalf the petition is filed.~~

35    ~~(2) If the isolated elder or dependent adult is so incapacitated~~  
36    ~~that he or she cannot express an opinion concerning visitation with~~  
37    ~~the petitioner, a petition for temporary conservatorship or~~  
38    ~~guardianship may be initiated in accordance with Section 2250 of~~  
39    ~~the Probate Code.~~

1     ~~(y) The Judicial Council shall develop forms, instructions, and~~  
2     ~~rules relating to matters governed by this section. The petition and~~  
3     ~~response forms shall be simple and concise, and their use by parties~~  
4     ~~in actions brought pursuant to this section shall be mandatory.~~

5     ~~SEC. 2.~~

6     *SEC. 3.* No reimbursement is required by this act pursuant to  
7     Section 6 of Article XIII B of the California Constitution for certain  
8     costs that may be incurred by a local agency or school district  
9     because, in that regard, this act creates a new crime or infraction,  
10    eliminates a crime or infraction, or changes the penalty for a crime  
11    or infraction, within the meaning of Section 17556 of the  
12    Government Code, or changes the definition of a crime within the  
13    meaning of Section 6 of Article XIII B of the California  
14    Constitution.

15    However, if the Commission on State Mandates determines that  
16    this act contains other costs mandated by the state, reimbursement  
17    to local agencies and school districts for those costs shall be made  
18    pursuant to Part 7 (commencing with Section 17500) of Division  
19    4 of Title 2 of the Government Code.